

The Real Estate

Vol. 22 No. 1

January 2003



Diane Duncan

Comments from the Chair

by Diane Duncan, Commission Chair

Thank you for the privilege of serving on the Real Estate Commission for the past seven years. During that time, the Commission has implemented numerous changes. Quite frankly many of those changes have been made because you, the licensees, have suggested methods to change or improve a process and we, your Commission members, have listened.

When the Continuing Education program was signed into law, we had a mandatory 12-hour program which was designed and produced by the Real Estate Education Council. However, industry input was welcomed in each course design. During the past few years, licensees petitioned the Commission to allow more flexibility in the program. As everything does in the state government process, it took a while to achieve the requested flexibility, and we have now approved a Core Course and multiple avenues in which to obtain elective courses.

You, the industry, and the Commission recognized the need for more education to increase the professionalism of the licensee while hopefully decreasing the number of complaints. Together we crafted the present law increasing the Continuing Education requirement to 16-elective credit hours plus the Core Course, not to exceed four credit hours.

A definite plus for you is the additional flexibility that has been implemented in reaching the required hours. You can now receive CE credit for courses taken in pursuit of an industry designation, among numerous other options. A complete list may be accessed by visiting the Commission's web site at www.idahorealestatecommission.com.


We were told that our license law was antiquated, confusing, difficult to read and understand. The Commission, with input from the industry, spent over two years on a total revision of our statutes to eliminate duplication, clarify language, and categorize similar topics.

Then the industry brought to our attention what they viewed as a concern with our investigatory process, so we have refined and changed the process. For an amended version of that process, see the Investigative & Hearing Process article on page 4 or visit our web site to review the full investigative and hearing process. Within this new process is the requirement that the Commissioners review and approve an investigative report before action can commence against a licensee.

Currently, the Commission is researching the single licensure issue with other states that have implemented this concept. Since the agency relationship with the consumer, buyer or seller, is generally with the salesperson, not the designated broker, it makes sense for all licensees to be brokers.

We have been studying the present designated agency statute to determine whether the time has come to make some revisions in the original law.

By accessing the Commission web site, it is possible for you to sit in the comfort of your office and conduct business with us on a twenty-four/seven basis. Recent additions to this site allow the licensee to change personal information, look up the status of other licensees, and renew their license. The broker can add or remove a salesperson, change business location address, as well as other functions, at any time.

Please continue to contact us with suggestions for improving our processes. You can call, write, e-mail or visit with us at a regular Commission meeting. You will be welcomed. The Commission is charged with protecting the public interest, which means that although we must protect the public from unscrupulous licensees, the other part of that equation is that it is our duty to arm you, the licensee, with the highest degree of knowledge possible in order for you to do your job. Please contact us. The Commission listens! 

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The Real Estate

Vol. 22, No. 1 January 2003

The Real Estate is an official publication published semiannually by the Idaho Real Estate Commission.

Articles by outside experts express the author's particular viewpoints. These opinions are not necessarily shared by the Commission, nor should they be mistaken for official policy. The articles are included because we feel they will be of interest to the readers. Submissions are solicited; however, articles should not exceed 500 words in length and may be edited as space and content make necessary.

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Jennifer Humphreys




Nancy Mesaros

Jennifer Humphreys joined the Idaho Real Estate Commission on August 19, 2002, as Office Specialist in the Licensing and Education departments. Jennifer grew up in Lewiston and moved to Boise to be closer to her family. She has worked for several different state agencies in the last 5 years, most recently the Idaho Transportation Department. Recently engaged, Jennifer and her fiancée plan on getting married next year. She enjoys painting miniatures and putting together jigsaw puzzles.

Nancy Mesaros joined the Idaho Real Estate Commission on June 25, 2002, as Inspector in the Enforcement Department. She replaces Craig Boyack who was promoted to the Investigator position.

Nancy is an Idaho native with 14 years of real estate experience as an office manager and licensed personal assistant in Twin Falls and 5 years in the banking industry.

Her formal education consists of a bachelor's degree in accounting from Utah State University. Nancy resides in Boise, has two grown daughters and two perfect grandchildren who monopolize all of her free time. 


Idaho Real Estate Commission Guidelines

The Commission publishes "Guidelines" to further explain the *Idaho Real Estate License Laws and Rules*.

They can be found on our web site at www.idahorealestatecommission.com.

The Business Conduct and Office Operations (BCOO) correspondence course also contains the Guidelines and can be purchased from the Commission office for \$20.

Guideline topics include:

- ◆ Cancellation or Withdrawal of Listings
- ◆ Out-of-state Real Estate Agents Acting in Idaho
- ◆ Regular Employee Status Determination
- ◆ Guaranteed Sales Plans
- ◆ Guidelines for "Suspended" Brokers
- ◆ Approved Escrow Holders
- ◆ Terms Under Which Rental or Lease Fees May be Split with Nonlicensed Persons
- ◆ Splitting Fees with Nonlicensed Persons Prohibited
- ◆ Offices with Similar Business Names Operating at the Same Address
- ◆ Offering Incentives to Potential Buyers
- ◆ Licensed Idaho Resident with Nonresident Broker
- ◆ Disputed Earnest Money
- ◆ Establishing Real Estate Trust Accounts
- ◆ Presentation of Multiple Offers by the Listing Agents
- ◆ Use of Unlicensed Assistants and Office Staff
- ◆ HUD Regulations on Referral Fees
- ◆ Signatures and the Use of Counteroffer Forms
- ◆ NonAgency
- ◆ Telephone Solicitation
- ◆ Auctioneers of Real Estate
- ◆ Licensees' Personal Transactions to be Conducted Through a Responsible Broker 

2003 Commission Legislative Package

by Donna M. Jones, Executive Director



Donna Jones

The Commission has developed two proposals for the 2003 Idaho Legislative Session. We reviewed and accepted input from the Idaho Association of REALTORS® Executive Committee and made a number of revisions based on those comments and suggestions.

As a result of this process the Commission has developed two separate bills. The first is a Housekeeping bill. The other is specific to the process for licensing persons who have been convicted of a felony. This second proposal would grant the Commission the authority to review the applications of persons who have been convicted of a felony, in accordance with specific criteria bearing upon the person's suitability for a real estate license.

Below is a brief description of each bill.

Housekeeping Bill

This proposal amends:

Section 54-2003(3) adding back into law the requirement that brokerages who conduct transactions for mobile homes, motor homes or floating homes, which are not "real estate", must comply with the License Law with regard to those transactions.

Section 54-2013(6) allowing for "self-certification" of compliance with insurance requirement, making proof of insurance subject to audit by the Commission.

Section 54-2018(8) clarifying that a licensee does not get a refund if he decides to terminate the license.

54-2023(2) clarifying that the licensee will not get Continuing Education (CE) credit twice for taking the same Core Course, or for taking the same course in the same license period.

Section 54-2035 responding to IREC and IAR concerns over the fact that the requirements for certification exist in policy rather than law. The amendment re-organizes the subsection, and brings long-standing written policy into the statute.

Bill Authorizing Commission Review of License Applications of Convicted Felons

At present, the License Law provides a five-year "waiting period" before a convicted felon can qualify for a license. Once the five-year period has elapsed, the Commission is without authority to deny a license based upon the applicant's convictions. This is so, regardless of the seriousness of the conviction, its relationship to the practice of real estate, and any other circumstances that may be relevant to the applicant's suitability for a license.

In order to better protect the public, the Commission would like to assume the responsibility of reviewing the applications of convicted felons before granting a real estate license.

This bill would provide the Commission with authority to review the license applications of any person who has been convicted of any felony. It also sets forth the standards that the applicant must meet and lists the criteria that will be considered by the Commission.

Last year, the Commission introduced a similar measure which was withdrawn after concerns were expressed by some Senate committee members. However, the Commission remains very concerned with the licensing of convicted felons. Accordingly, we have

drafted a new proposal, which is a significant change from that submitted last year, and which addresses the concerns expressed by those legislators.

There are a few other "housekeeping" types of changes also contained within this bill.

First, the Commission is seeking to change the "trigger" event for the 5-year waiting period. This period will begin when the applicant is released from probation or parole, which will always be later than when the person is convicted or released from prison. The amendment would also delete certain language, which is redundant of the definition of the "conviction" already existing in the License Law.

Finally, section 54-2012(h) is being amended. The reason is that the procedure for fingerprinting is set elsewhere in state statute and federal law.

We believe this bill is of tremendous importance to the industry, to the safety of the public, as well as real estate licensees. The Commission is asking for your support. 📧

Questions & Answers

Question: Can an agent pay a referral fee to a licensee in another state?

Answer: License law **54-2054(2)** states that you cannot pay any part or share of a commission, fee or compensation to any person who is not actively licensed in Idaho or in another state or jurisdiction. The Idaho broker making the payment is responsible for verifying the active licensed status of the receiving broker.

It is therefore permissible to pay referral fees to brokers outside of Idaho. You must verify that the person receiving the fee is actively licensed in

their jurisdiction prior to paying the fee.

Question: Can a brokerage advertise that anyone buying a home from them, during a specific time period, will receive a rebate?

Answer: License law **54-2054(2)** allows a licensee to pay any part or share of a commission, fee or compensation received directly to a principal to the transaction. However, no commission, fee or compensation may be split with any party to the transaction in a manner which would directly or indirectly (continued on page 19)

The Investigative & Hearing Process

Revised October 2002

This abbreviated article has been prepared to better inform real estate licensees of the procedures followed during an investigation and disciplinary proceeding. A complete copy, as well as the Rules of Practice and Procedure, may be accessed at our web site at www.idahorealestatecommission.com, or may be provided upon request from the Commission office.

The Commission is authorized by statute to administer and enforce the Real Estate License Laws and Rules and to investigate the actions and discipline any licensee found to have violated these laws. However, the Commission has no jurisdiction or authority to adjudicate the contractual rights of parties, to force a real estate licensee to perform under the terms of a contract, or to award damages. There are civil remedies that may be available to the complaining party by filing a lawsuit in a court of appropriate jurisdiction. Disputes involving \$4,000 or less may be resolved in Small Claims Court.

A person is acting "within the state of Idaho" if that person is dealing with any interest in real property or a business opportunity involving an interest in real property, which is situated in this state, or is conducting or attempting to conduct or solicit real estate business with residents of the state of Idaho.

Audits. The Commission or its duly authorized representative is authorized to conduct periodic inspections, surveys and audits of the transaction records and real estate trust accounts of all Idaho licensed designated brokers.

Any transaction records or real estate trust account records located outside the state of Idaho shall promptly be made available to the Commission upon request at the licensee's own cost and at the location or in the manner requested by the Commission.

If the analysis of a broker's real estate trust account indicates a deficiency or any irregularity which cannot be resolved between the Commission and the broker, the Commission may order a complete audit of the trust account by a certified public accountant at the broker's expense.

Licensee's Duty to Cooperate. The Commission also has the authority to investigate the action of any Idaho licensee as provided in this section. The licensee or broker shall answer all rea-

sonable investigative questions of the Commission, and must make available, promptly upon request, any and all records to the Commission at the licensee's own cost and at the location or in the manner requested by the Commission.

Authority to Discipline. The Commission may temporarily suspend or permanently revoke licenses, issue a formal reprimand and impose a civil penalty in an amount not to exceed \$5,000, and assess costs and attorney's fees for the cost of any investigation and administrative or other proceedings against any licensee who is found to have violated any section of the Idaho Code, the Commission's administrative rules or any order of the Commission. The Executive Director may issue informal letters of reprimand to licensees without civil penalty or cost assessment.

The Commission may impose a civil penalty in an amount not to exceed \$5,000 and assess costs and attorney's fees for the cost of any investigation and administrative or other proceedings against any person who is found, through a court or administrative proceeding, to have acted without a license in violation of section 54-2002, Idaho Code.

The civil penalty provisions of this section are in addition to, and not in lieu of, any other actions or criminal penalties for acting as a broker or salesperson without a license.

Complaint and Investigative Process. Consumer complaints alleging licensee misconduct must be submitted in writing to the Commission. A complaint alleging facts that, if true, would constitute a violation of the license laws, will be investigated by Commission Staff (Staff). The Staff may also initiate an investigation upon information received by the Executive Director. The fact that Staff is conducting an investigation does not mean that Staff is seeking to take action against a licensee.

The Staff will pursue disciplinary action only where the facts revealed through

the completed investigation are sufficient to support the filing of an Administrative Complaint. In the event the facts are determined to be insufficient, the Staff will issue a letter of "no action" and the matter will be closed.

In general, the Staff employs the following procedures when conducting an investigation:

At the onset of the investigation, the Commission investigator writes to the licensee being investigated, informing him or her of the complaint or information received, and requests that the licensee respond to the allegations in writing. The licensee may be asked to provide a written response to specific questions posed by the investigator, or to provide documents or other information. After receiving the licensee's written responses, the investigator may request a meeting with the licensee and may direct the licensee to bring additional documents. Typically, the documents requested are those related to a real estate transaction and are normally kept in the licensee's office. In some instances it may be necessary for the investigator to remove original documents to another location for copying. Where this occurs, the licensee may request a receipt describing the originals taken and indicating when they will be returned.

Once the investigation is completed, the results and any recommendations are forwarded to the Executive Director for a decision on how to proceed. Based upon the results of the investigation, the Executive Director may decide (1) to conclude the matter at that point, by either closing the case or by issuing an informal Staff Letter of Reprimand; (2) request additional information; or (3) pursue disciplinary action against the licensee.

Prior to pursuing disciplinary action, the Executive Director will submit a written report to Commission members containing a summary of the relevant

(continued on page 5)

DON'T GET CAUGHT WITH YOUR LICENSE DOWN

Double Dipping

by Terry Ruettgers, Chief Investigator



Terry Ruettgers

John was the designated broker of an office with 73 agents and had enjoyed great success for the past several years. His agents worked hard and several had both licensed and unlicensed assistants. He was progressive enough to realize it would be of benefit to both his agents and the consumers who listed and bought property through his office, if he had "transaction coordinators" to follow up on some of the detail work that is often "let go".

While the agents could also see the benefit of increased production and more freedom to do what they liked to do best (**sell and list property**) some agents had problems with paying the "transaction coordinator" out of their commissions splits.

One of John's more progressive agents came up with the idea of charging a "transaction fee" to both buyers and sellers to cover the agent's assessed costs. When he listed a property, the agent disclosed there would be a \$175 transaction fee charged in addition to the brokerage fee. Likewise, when he was working with a buyer, either as an agent for the buyer or a non-agent he would have them agree in writing to a transaction fee of \$175.

While some sellers and buyers had objected to this, most seemed to just assume it was a normal fee that was charged to everyone, and they went along with it.

Other agents in John's office started charging the fee to their sellers and buyers, until it seemed most of the agents were doing it. **John was very aware of the fee being charged since he reviewed the listings, representation, and compensation agreements as they came in.**

Since the fee was disbursed straight from the title company to his commission account and then to the "transaction coordinator", John felt that things were working very smoothly.

That was until the Commission audited him and the Inspector told him that

he was in violation of license law by **collecting fees from two parties and not disclosing it in writing to both parties to the transaction.** Then the other shoe fell. John was also facing another charge for **"fee splitting with an unlicensed person"** by giving this fee to the transaction coordinator who wasn't licensed.

After reviewing his closed transactions for the past year, the amount of fees collected and not disclosed were substantial. Additionally, there were several transactions where a buyer or seller had not agreed to pay this transaction fee, but they were charged the fee at closing.

After an administrative hearing, John was required to pay a civil fine of \$3,500, the costs and attorney's fees

for the administrative action and given a formal reprimand for his actions.

Transaction fees are NOT illegal; just remember if you are **"double dipping"** that you need to **disclose this in writing to both parties**, either in the Purchase and Sale Agreement or an addendum. If you do this you **won't get caught with your license down.** 🏠

(Investigative from page 4)

facts determined through the investigation, and a summary of the alleged violations of law. This report will not contain the parties' names, locations or other identifying information.

The Commission will review the report to determine whether the facts are sufficient to pursue an action against the licensee. If the Commission determines that the facts are insufficient, no disciplinary action will be taken. The complainant and the responding licensee will be notified in writing of this "no action" determination.

If, however, the Commission determines the facts in the report are sufficient to proceed with a formal disciplinary action, the Commission will authorize the Staff to pursue formal disciplinary proceedings.

In that event, the licensee will receive a written notice from the Staff summarizing the facts revealed by the investigation and the violations that the Staff believes occurred. Within the letter the

Staff will provide to the licensee the option to informally resolve the matter through stipulation, without the commencement of formal administrative proceedings. The letter will also describe the licensee's right to formal hearing. The licensee will be given a set period of time within which to advise the Staff on how he or she desires to proceed.


At any time during the investigation or hearing process of the Commission, a licensee may seek legal advice from an attorney. The Commission strongly recommends that a licensee consult with an attorney upon receipt of any notice indicating that disciplinary action is being pursued.

On occasion the Executive Director may resolve matters informally when it is determined that the law would best be served by a conference to correct the problem. Because an "Informal Inquiry" may lead to a decision on the part of the Executive Director to pursue formal disciplinary action, a licensee may be represented by counsel during this inquiry as well. 🏠

Continuing Education!

Check out the Real Estate Commission's web site for a great new resource!

Recently revised, the web site helps to answer many of the recurring questions we've received regarding **CONTINUING EDUCATION**. The web site also guides the licensee through the requirement and the various choices of how to meet the continuing education requirement. Please take a moment to discover this great resource: <http://www.idahorealestatecommission.com/EdCorner/CEinfo.html>

As always, if there are any questions or comments about the CE program, feel free to contact our office! 

Continuing Education (Scheduled Courses)

❶ What is the CE requirement?

Licenses EFFECTIVE July 1, 2002 to June 30, 2003
One Core Course, PLUS 8 elective course hours

[or read what
the law says!](#)
(54-2023)

Licenses EFFECTIVE July 1, 2003 and after
One Core Course, PLUS 16 elective course hours

❷ What do I need to take & how do I find courses?

You need at least one (1) Core Course

[Core Outline](#)

- challenge the **CE Core** exam ([here's how](#))
- rent video/audio tapes & challenge the **CE Core** exam ([here's IREC's rental form](#))
(print the form, complete it, and return to IREC with fee.)
- attend a live **CE Core** course ([here's a schedule](#))

AND 8 (or 16) elective course hours

- take another **CE Core** course! (different from your first Core!)
 - challenge the **CE Core** exam ([here's how](#))
 - rent video/audio tapes & challenge the **CE Core** exam ([here's a rental form](#))
 - attend a live **CE Core** course ([here's a schedule](#))
- challenge the IREC CE Elective Buyer Brokerage exam (4 hours) ([here's how](#))
- rent video/audio tapes & challenge the IREC CE Elective Buyer Brokerage exam (4 hours) ([here's a rental form](#)) and ([here's how to challenge the exam](#))
- attend a live approved CE Elective course ([here's a schedule](#))
- take a distance learning CE Elective course ([here's a list](#))
- attend a Commission meeting (3 hours) ([here's a schedule & registration form](#))
- attend a Train the Trainer Workshop ([here's a schedule](#))
- attend a Broker Prelicense Course ([here's a schedule](#))
- challenge the Broker Prelicense Course final course exam ([here's how](#))
- attend a national real estate professional designation required course ([here's a partial list of real estate organizations](#))
- attend a course approved by another state for real estate licensing ([here's a partial list of Regulatory agencies](#))
- attend a course in real estate topics approved for other professional licensing ([here's a list of known professions that occasionally offer courses in approved real estate topics](#))

[FAQs](#)

Continuing Education Audit Update

By Jill Randall, Education Director



Jill Randall

It has been six months since the Commission enacted its policy of requiring the renewing licensee to certify that he or she meets all qualifications for renewal, including completion of approved continuing education. Submission of the renewal application with that certification will result in the Commission's reliance on the certification and the renewed license will be issued. The Commission then selects renewed licensees to verify the completion of the clock hours as certified for the issuance of the renewed license.

During the first 4 months, we audited 151 renewed licensees and, of that number, 9 licensees were found to have not completed the continuing education as they certified to on the renewal application. These licensees face sanctions ranging from a Staff Letter of Reprimand and Civil Penalty to license revocation and Civil Penalty.

The underlying conduct in these cases has included failing to complete the current Core Course, submitting certificates for courses used to renew two years ago, miscalculating the number of clock hours earned, returning distance education courses for scoring but not receiving certificates verifying completion at time of renewal and registering for courses but not completing the courses. Regardless of the underlying reason, the fact is that the licensee had not completed the approved continuing education as the licensee certified for the issuance of the renewed license. As evidenced by the actions reported above, the Commission has established a zero-tolerance policy for such conduct and will impose sanctions for such conduct.

The good news is that the majority of licensees responding to the audit had completed the approved continuing education as they had certified to on the renewal application. The Commission's expectation is 100% compliance.

What you can do to help the Com-

mission achieve its goal of 100% compliance.

Read your renewal application. It says "I certify under penalty of perjury that I have taken and completed these continuing education courses listed above as required by the *Idaho Real Estate License Law and Rules*. I further certify that I have obtained Errors & Omissions Insurance as required by law. I agree to furnish to the Idaho Real Estate Commission, upon request, sufficient evidence of having completed these requirements..."

Check your course certificates before renewing. By submitting your renewal application, you are telling the Commission that you have met all the requirements for renewal on that date; not that you may be registered to take some courses or that you have returned a distance education course examination for scoring, but rather that you have actually completed the courses, including the current Core Course, and that you have in your possession the course certificates to verify the certification statement on the date you mail your renewal application.

Complete the required Core Course. The Commission has always required completion of the Core Course for renewal. The Commission updates the Core Course each July to ensure that the course is timely and meaningful. The Core Course contains Case Law, Legislative Update, and Hot Topics.

Know the dates your continuing education is valid. If you renew your license late, remember that any continuing education completed for that renewal may not be used for the next renewal cycle. For example, a licensee was last due for renewal on September 30, 2000, but did not complete all the continuing education hours until October 1, 2000, at which time, he renewed his license late. The license is now due for renewal again on September 30,

2002. None of the continuing education taken for the September 2000 renewal can be counted for the 2002 renewal, even though some of the courses were completed within the 2000-2002 license term. The courses completed before the license was last renewed on October 1st cannot be double-counted for the 2002 renewal.

Most Importantly...

DO NOT submit your license renewal application until you have checked each course certificate to ensure that the courses are valid toward your current renewal, that you have completed the core course and that you have completed the minimum hours required for renewal. 📎

In Memory...

The Idaho Real Estate Commission extends their sympathies to the families of:

C. Blaine Breckon, Nampa
Jimmie David Ferguson, Nampa
Clinton Parkinson, Orem, UT
Maricela Rodriguez, Caldwell
Patsy Spiker, Boise
Ronald K. Vaughn, Emmett

Licensing Update

By Neal Bernklau, Licensing Supervisor

ERRORS & OMISSIONS INSURANCE UPDATE

Effective October 1, 2002, a new process called E&O Self-Certification, was created for E&O insurance. On all renewals and change forms submitted to the Commission office the licensee must certify that they have and will continue to maintain E&O insurance while they hold an active license. The licensee must keep proof that they have insurance and submit it to the Commission upon request.

Also on October 1, 2002, Medmarc Insurance Company, through Rice Insurance Services Company, LLC (RISC), entered into a new E&O insurance contract. All licensees were mailed notification by RISC the first two weeks of August notifying them of the changes in the E&O program. **As of October 16, 2002, there were 750 licensees that had not purchased E&O insurance.** Idaho Code 54-2013 requires that all active licensees maintain E&O insurance either by the group contract or an independently obtained policy.

For those who did not renew, if you have been identified as practicing real estate without E&O insurance, there will be a civil penalty fine ranging from \$50 to \$250 and your license will be inactivated.

Under the new contract, the insurance company, RISC, will be collecting the premiums for the group policy and they will download the information to the Commission's database. Licensees should contact RISC directly at 1-800-637-7319 for questions regarding E&O insurance. **The group policy has an annual renewal, therefore, ALL group E&O insurance policies will expire October 1, 2003.**

The Commission staff has also changed the administrative process for independently obtained E&O insurance. Offices are no longer required to submit annual Certificates of Coverage for each licensee. The only time that a Certificate must be submitted is when specifically requested for compliance review purposes.

NEW ON-LINE SERVICE

On October 1, 2002, the Commission and Access Idaho activated the expanded online services internet portal. With this upgraded service, licensees can:


- ◆ Change personal address
- ◆ Register for IREC sponsored courses
- ◆ Change personal name
- ◆ Review posted education



Neal Bernklau

- ◆ Renew license up to 90 days early
- ◆ Renew late license (up to one year from license expiration date)
- ◆ Print renewed license
- ◆ Search our Licensee database in "real time" by Last Name, First Name, Company Name, City, County, or by more than one search criteria

Brokers can:

- ◆ Add or remove associates from their office
- ◆ Change address of the office(s)
- ◆ Change the name of the office
- ◆ Print licenses for new associates
- ◆ Print duplicate licenses 

Lewis County Planning & Zoning Requires Building Permits


by Ron Werhan, Lewis County Planning & Zoning Coordinator

Lewis County requires building permits and every county requires an electrical permit for a residence. A recent situation follows that makes it crucial that all REALTORS® understand each county's requirements.

Lewis County Planning & Zoning Department came upon an interesting situation recently when one of our county employees was on tour of a section of Lewis County and discovered a building being erected without a building

permit. Upon notifying the property owner, he stated that his Lewiston REALTOR® had told him when he recently purchased this property that Lewis County did not require building permits and that is why he chose to purchase in Lewis County rather than Nez Perce County. The owner also stated that he has it in writing from this Lewiston REALTOR® that a building permit was not required.

As you well know, before a building

permit is issued, a property owner also needs a septic permit from the Health Department. Following this REALTOR®'s direction, this new property owner has major costly corrections and replacements to be completed before his septic system, already installed, meets code and he can apply for a building permit for his residence that is almost completed. He is not a "happy camper"! 

Course Schedules *January - June 2003*

Sales Prelicense

A total of 90 hours of approved real estate education is required for a salesperson's license. Specific information concerning education requirements for licensure can be found in the *Idaho Real Estate License Manual*. To register for a course, contact the provider. See last page of course schedule for a list of providers.

Essentials of Real Estate (45 hours)

Intended for the beginner in real estate who has little, if any, previous knowledge in the field. A solid core of fundamental concepts will be studied. This course partially fulfills the educational requirements for a salesperson's license.

Dates	Time	Provider	Location	Cost	Instructor
Correspondence (Fin C201 Fund. of Real Estate)		U of I/IS	N/A	\$300	Loegering
Correspondence (RE305x 3 credits RE Essentials)		WSU	N/A	\$495	Crellin
On-line (Real Estate & Urban Economics)		UofWy	N/A	\$420	Sunderman
Jan. 6-10, 13	8am-5pm	Pioneer	Boise	\$275	Byers
Jan. 6-16	9am-6pm	NIC	Post Falls	\$249	Hatch
Jan. 6-Feb. 12	6pm-10pm	Pioneer	Boise	\$275	Jonas
Jan. 8-10, 13-15	8am-5pm	AREC	Boise	\$275	Heist
Jan. 13-May 15	6pm-9pm	BSU	Boise	\$450	Loegering
Jan. 14-March 16	7am-10pm	EITC	Idaho Falls	TBA	TBA
Jan. 15-17, 29-31	8am-5pm	CSI	Twin Falls	\$333	Brawley
Jan. 21-Mar. 11	6pm-9pm	BSU-WFT	Nampa	\$275	TBA
Feb. 3-7, 10	8am-5pm	Pioneer	Boise	\$275	Byers
Feb. 5-7, 10-12	8am-5pm	AREC	Boise	\$275	Heist
Feb. 17-Mar. 26	6pm-10pm	Pioneer	Boise	\$275	TBA
Mar. 3-7, 10	8am-5pm	Pioneer	Boise	\$275	Byers
Mar. 3-11	9am-6pm	NIC	Post Falls	\$249	Hatch
Mar. 3-15	6pm-10pm	ISU	Pocatello	\$215	Johnston
Mar. 5-7, 10-12	8am-5pm	AREC	Boise	\$275	Heist
Mar. 17-19, 24-26	8am-5pm	CSI	Hailey	\$333	Heist
Mar. 19-21, 26-28	9am-6pm	LCSC	Lewiston	\$230	Aubertin
Mar. 31, Apr. 1-4, 7	8am-5pm	Pioneer	Boise	\$275	Byers
Mar. 31-May 7	6pm-10pm	Pioneer	Boise	\$275	Jonas
Apr. 2-4, 7-9	8am-5pm	AREC	Boise	\$275	Heist
Apr. 23-25, 28-30	8am-5pm	AREC	Boise	\$275	Heist
Apr. 28-30, May 1, 2, 5	8am-5pm	Pioneer	Boise	\$275	Byers
Apr. 29-May 6	9am-6pm	NIC	Post Falls	\$249	Hatch
June 2-6, 9	8am-5pm	Pioneer	Boise	\$275	Byers
June 4-6, 9-11	8am-5pm	AREC	Boise	\$275	Heist

Real Estate Practices (45 hours)

Designed for the real estate student who has a basic understanding of the fundamental concepts of real estate. Completion of Practices and its prerequisite course will satisfy the educational requirements for a salesperson's license. Prerequisite: Essentials of Real Estate.

Dates	Time	Provider	Location	Cost	Instructor
Jan. 7-Feb. 13	6pm-10pm	Pioneer	Boise	\$275	Townsend
Jan. 14-17, 20-21	8am-5pm	Pioneer	Boise	\$275	Byers
Jan. 16-17, 20-23	8am-5pm	AREC	Boise	\$275	Heist
Feb. 3-11	9am-6pm	NIC	Post Falls	\$249	Hatch
Feb. 11-14, 17-18	8am-5pm	Pioneer	Boise	\$275	Byers
Feb. 13-14, 17-20	8am-5pm	AREC	Boise	\$275	Heist
Feb. 18-Mar. 27	6pm-10pm	Pioneer	Boise	\$275	Townsend
Mar. 11-14, 17-18	8am-5pm	Pioneer	Boise	\$275	Byers
Mar. 13-14, 17-20	8am-5pm	AREC	Boise	\$275	Heist
Mar. 18-May 13	6pm-9pm	BSU-WFT	Nampa	\$275	TBA
Mar. 20-29	8am-5pm	EITC	Idaho Falls	TBA	TBA
Apr. 1-May 8	6pm-10pm	Pioneer	Boise	\$275	Learned
Apr. 2-4, 9-11	9am-5pm	LCSC	Lewiston	\$230	Aubertin
Apr. 7-9, 16-18	8am-5pm	CSI	Hailey	\$333	Clifton
Apr. 7-18	8am-1pm	ISU	Pocatello	\$215	Galloway
Apr. 7-9, 12, 14-15	9am-6pm	NIC	Post Falls	\$249	Hatch
Apr. 7-9, 14-16	8am-5pm	CSI	Twin Falls	\$333	Brawley
Apr. 8-11, 14-15	8am-5pm	Pioneer	Boise	\$275	Byers
Apr. 10-11, 14-17	8am-5pm	AREC	Boise	\$275	Heist
May 1-2, 5-8	8am-5pm	AREC	Boise	\$275	Heist
May 6-9, 12-13	8am-5pm	Pioneer	Boise	\$275	Byers
May 13-June 19	6pm-10pm	Pioneer	Boise	\$275	Tracy
June 2-10	9am-6pm	NIC	Post Falls	\$249	Hatch
June 10-13, 16-17	8am-5pm	Pioneer	Boise	\$275	Byers
June 12-13, 16-19	8am-5pm	AREC	Boise	\$275	Heist

Broker Courses

Four additional courses of at least 90 hours of advanced approved real estate education is required for a broker's license. Specific information concerning educational requirements for licensure can be found in the Idaho Real Estate License Manual. To register for a course, contact the provider. These courses are also approved for elective continuing education credit.

Alternative Finance (20 hours)

Elective course for broker's license. Designed as an introduction to creative financing. It examines why "creative" financing is necessary. Included is a discussion of "tools" for creative financing and how they are used.

Date	Time	Provider	Location	Cost	Instructor
May 9-10, 12	9am-6pm	NIC	Post Falls	\$195	Hatch

Areas of Real Estate Specialization (30 hours)

Elective course for broker's license. For the Graduate, REALTORS® Institute (GRI) designation. The GRI program is designed to educate and train persons in the residential real estate brokerage business in which their primary activity is the brokering of single-family home ownership property. required. Contact the Idaho Association of REALTOR® for more information regarding the GRI designation requirement.

Date	Time	Provider	Location	Cost	Instructor
Feb. 3-4 (Module 1)	8am-5pm	IAR	Boise	TBA	Various
Feb. 5-6 (Module 2)	8am-5pm	IAR	Boise	TBA	Various
May 8-9 (Module 1)	8am-5pm	IAR	Coeur d'Alene	TBA	Various

Brokerage Management (30 hours)

Required course for broker's license. Intended to help a person understand how to set up and run a real estate brokerage office and emphasizes the application of management techniques required for the brokerage operation.

Date	Time	Provider	Location	Cost	Instructor
Feb. 24-27	8am-5pm	Pioneer	Boise	\$250	Jonas
Mar. 28-29, Apr. 4-5	9am-6pm	NIC	Post Falls	\$249	Albi
May 1-2, 8-9	8am-5pm	CSI	Twin Falls	\$255	Brawley/Briggs

Finance (30-45 hours)

Elective course for a broker's license. Designed as an introduction to real estate financing and includes a study of the sources and application of funds, the financial instruments commonly used, institutional structures and policies, and loan processing. Each student must be familiar with a financial calculator prior to enrolling.

Date	Time	Provider	Location	Cost	Instructor
Correspondence (BUSC262)		Uoff-ISO		\$300	Hatch
On-Line		U of WY		\$420	Sunderman
Jan. 27-30	8am-5pm	IAR	Coeur d'Alene	TBA	Clifton
Feb. 13-14, 20-21	8am-5pm	CSI	Twin Falls	\$255	Clifton
June 23-26	8am-5pm	Pioneer	Boise	\$250	Clifton

Law (30-45 hours)

Required course for broker's license. Designed for the real estate professional as a course in the general principles of law governing the interest in real estate, and to acquaint the student with how the law works, but is not intended to be a substitute for competent legal counsel.

Date	Time	Provider	Location	Cost	Instructor
Correspondence (Bus 263)		Uoff-ISO	Moscow	\$300	Felton
Jan. 28-31	8am-5pm	Pioneer	Boise	\$295	Justin May
Mar. 6-7, 13-14	8am-5pm	CSI	Twin Falls	\$255	J Dee May

Valuation and Analysis (30-45 hours)

Elective course for a broker's license. An introductory course covering the purpose of appraisals, the appraisal process and the different approaches, methods, and techniques used to determine the value of various types of property.

Date	Time	Provider	Location	Cost	Instructor
Mar. 22-23, 29-30	8am-5pm	EITC	Idaho Falls	TBA	TBA
Apr. 10-11, 17-18	8am-5pm	CSI	Twin Falls	\$255	Nelson
Apr. 22-25	8am-5pm	Pioneer	Boise	\$295	Nelson

Other Courses

Business Conduct & Office Operations (4 hours)

Designed for brokers, sales associates, secretaries, bookkeepers, and other related personnel, this course acquaints them with the current laws, rules and procedures governing the handling of client funds, brings participants up-to-date on changes in the laws, rules and procedures governing the handling of client funds, and assists real estate firms in developing good record keeping and business practices. This course is approved for elective continuing education credit.

Date	Time	Provider	Location	Cost	Instructor
Correspondence		IREC	n/a	\$20	Staff
Jan. 9	9:30am-1:30pm	IREC	Nampa	\$20	Mesaros

Business Conduct & Office Operations (continued)

Date	Time	Provider	Location	Cost	Instructor
Jan. 24	8:30am-12:30pm	AREC	Boise	\$35	Heist
Mar. 26	8:30am-12:30pm	AREC	Boise	\$35	Heist
May 12	8:30am-12:30pm	AREC	Boise	\$35	Heist
June 20	8:30am-12:30pm	AREC	Boise	\$35	Heist

Train the Trainer Workshop (various hours)

A fun, informative and practical workshop designed for real estate office trainers, certified real estate instructors, or anyone who wants to improve their adult teaching skills. Course provider and workshop administrators are also encouraged to attend.

Date	Time	Provider	Location	Cost	Instructor
May 13-14	8am-5pm	IREC	Boise	\$100	TBA
June 22-25 (REEA Annual Conference)		REEA	Philadelphia, PA	TBA	Various

Continuing Education

These courses are intended to keep the licensee abreast of changes in the real estate profession. There are Core Courses that all licensees are required to take and elective courses that the licensee may take in their particular field or one of interest. See the CE Information page for more information about these courses.

Distance Learning

Name	Hours	Provider	Cost	Instructor
ADA & Fair Housing (on-line)	4	REWeb	\$45	LaMere
Business Conduct & Office Operations (correspondence)	4	IREC	\$20	Staff
Buyer Brokerage (Video or Audio)	4	IREC	\$15	Staff
Buyer Representation in Real Estate (on-line)	6	CEOO	\$45	Myers
Consensual Dual Agency (on-line)	4	REWeb	\$45	LaMere
Environmental Issues in Your RE Practice (on-line)	6	CEOO	\$45	Myers
Ethics in Real Estate (on-line)	4	REWeb	\$45	LaMere
Ethics in Real Estate (on-line)	6	CEOO	\$45	Myers
Intro to Commercial Real Estate Sales (on-line)	6	CEOO	\$45	Myers
Property Management & Managing Risk (on-line)	6	CEOO	\$45	Myers
Real Estate Math (on-line)	4	REWeb	\$45	LaMere
Real Estate & Taxes (on-line)	6	CEOO	\$45	Myers
Red Flags: Property Inspection Guide (on-line)	6	CEOO	\$45	Myers
CE Core (Video or Audio)	4	IREC	\$15	Staff

Live Courses

Course Name	Hrs	Dates	Provider	Location	Cost	Instructor
CECore	4	Jan. 6	AREC	Boise	\$35	Heist
Buyer Brokerage	4	Jan. 6	AREC	Boise	\$35	Heist
Cracking the Code-Understanding the Code Ethics	4	Jan. 7	AREC	Boise	\$35	Heist
Business Conduct & Office Operations	4	Jan. 9	IREC	Nampa	\$20	Mesaros
CECore	4	Jan. 9	NIC	Post Falls	\$39	Hatch
RE Broker/Salesperson Liabilities	4	Jan. 10	NIC	Post Falls	\$39	Albi
Commission Meeting	3	Jan. 16	IREC	Boise	\$0	N/A
Investment Real Estate Workshop	12	Jan. 22-23	IAR	Boise	\$149/179	Still
Buyer Brokerage & Red Flags: Property Inspection	8	Jan. 22	Pioneer	Boise	\$65	Byers
CECore	4	Jan. 23	Pioneer	Boise	\$45	Byers
Business Conduct & Office Operations	4	Jan. 24	AREC	Boise	\$35	Heist
Buyer Brokerage	4	Jan. 29	AREC	Boise	\$35	Heist
CECore	4	Jan. 29	AREC	Boise	\$35	Heist
Cracking the Code-Understanding Code of Ethics	4	Jan. 30	AREC	Boise	\$35	Heist
CECore	4	Jan. 30	AREC	Boise	\$35	Heist
Fair Housing, ADA, & Real Estate Agents	4	Feb. 5	NIC	Post Falls	\$39	Hatch
CECore	4	Feb. 6	NIC	Post Falls	\$39	Hatch
RE Broker/Salesperson Liabilities	4	Feb. 10	NIC	Sandpoint	\$39	Albi
CECore	4	Feb. 10	NIC	Sandpoint	\$39	Albi
Understanding & Using Real Estate Contracts	4	Feb. 11	NIC	Sandpoint	\$39	Albi
Buyer Brokerage & Red Flags: Property Inspection	8	Feb. 19	Pioneer	Boise	\$65	Byers
CECore	4	Feb. 20	Pioneer	Boise	\$45	Byers
Commission Meeting	3	Feb. 20	IREC	Boise	\$0	N/A
CECore	4	Feb. 20	IAR	Ketchum	\$TBA	TBA
Cracking the Code-Understanding Code of Ethics	4	Feb. 20	IAR	Ketchum	\$TBA	TBA
Buyer Brokerage	4	Feb. 24	AREC	Boise	\$35	Heist
CECore	4	Feb. 24	AREC	Boise	\$35	Heist
CECore	4	Feb. 25	AREC	Boise	\$35	Heist
Cracking the Code-Understanding Code of Ethics	4	Feb. 25	AREC	Boise	\$35	Heist

Continuing Education Courses (Continued)

Name	Hrs	Dates	Provider	Location	Cost	Instructor
CE Core	4	Mar. 13	NIC	Post Falls	\$39	Hatch
Understanding & Using Real Estate Contracts	4	Mar. 14	NIC	Post Falls	\$39	Albi
Buyer Brokerage & Red Flags: Property Inspection	8	Mar. 19	Pioneer	Boise	\$65	Byers
CE Core	4	Mar. 20	Pioneer	Boise	\$45	Byers
Commission Meeting	3	Mar. 20	IREC	Boise	\$0	N/A
CE Core	4	Mar. 24	AREC	Boise	\$35	Heist
Buyer Brokerage	4	Mar. 24	AREC	Boise	\$35	Heist
CE Core	4	Mar. 25	AREC	Boise	\$35	Heist
Cracking the Code-Understanding Code of Ethics	4	Mar. 25	AREC	Boise	\$35	Heist
Business Conduct & Office Operations	4	Mar. 26	AREC	Boise	\$35	Heist
CE Core	4	Apr. 10	NIC	Post Falls	\$39	Hatch
RE Broker/Salesperson Liabilities	4	Apr. 11	NIC	Post Falls	\$39	Albi
Buyer Brokerage & Red Flags: Property Inspection	8	Apr. 16	Pioneer	Boise	\$65	Byers
CE Core	4	Apr. 17	Pioneer	Boise	\$45	Byers
Commission Meeting	3	Apr. 17	IREC	Boise	\$0	N/A
CE Core	4	Apr. 21	AREC	Boise	\$35	Heist
Buyer Brokerage	4	Apr. 21	AREC	Boise	\$35	Heist
CE Core	4	Apr. 22	AREC	Boise	\$35	Heist
Cracking the Code-Understanding Code of Ethics	4	May 1	IAR	Ketchum	\$TBA	TBA
CE Core	4	May 1	IAR	Ketchum	\$TBA	TBA
CE Core	4	May 1	NIC	Post Falls	\$39	Hatch
Fair Housing, ADA, & Real Estate Agents	4	May 1	NIC	Post Falls	\$39	Hatch
Understanding & Using Real Estate Contracts	4	May 2	NIC	Post Falls	\$39	Albi
CE Core	4	May 7	NIC	Sandpoint	\$39	Hatch
Business Conduct & Office Operations	4	May 12	AREC	Boise	\$35	Heist
CE Core	4	May 15	AREC	Boise	\$35	Heist
Buyer Brokerage	4	May 15	AREC	Boise	\$35	Heist
Commission Meeting	3	May 15	IREC	Boise	\$0	N/A
Buyer Brokerage & Red Flags: Property Inspection	8	May 15	Pioneer	Boise	\$65	Byers
CE Core	4	May 16	Pioneer	Boise	\$45	Byers
CE Core	4	May 16	AREC	Boise	\$35	Heist
Fair Housing, ADA, & Real Estate Agents	4	June 11	NIC	Post Falls	\$39	Hatch
CE Core	4	June 11	NIC	Post Falls	\$39	Hatch
Understanding & Using Real Estate Contracts	4	June 13	NIC	Post Falls	\$39	Albi
Buyer Brokerage & Red Flags: Property Inspection	8	June 18	Pioneer	Boise	\$65	Byers
CE Core	4	June 19	Pioneer	Boise	\$45	Byers
Commission Meeting	3	June 19	IREC	Boise	\$0	N/A
Business Conduct & Office Operations	4	June 20	AREC	Boise	\$35	Heist
CE Core	4	June 25	AREC	Boise	\$35	Heist
Buyer Brokerage	4	June 25	AREC	Boise	\$35	Heist
CE Core	4	June 26	AREC	Boise	\$35	Heist

Who to Contact: Course Providers

Provider Name	Contact	Phone Number
Academy for Real Estate Careers (AREC)	Gail Heist	208-377-9247
Boise State University (BSU)	Sue Ellis	208-426-3356
Boise State University WFT (BSU-WFT)	Craig Hoyt	208-426-1860
BYU-Idaho (BYU)	Larry B. Wickham	208-496-1040
College of Southern Idaho (CSI)	Penny Johnson	208-733-9554
Continuing Ed Online.org (CEO)	Steve Myers	206-523-9801
Department of Veterans Affairs (VA)	Bruce Newton	303-914-5618
Eastern Idaho Technical College (EITC)	Ken Erickson	208-524-3000
Idaho Association of REALTORS® (IAR)	Shelby Kerns	208-342-3585
Idaho Real Estate Commission (IREC)	Jill Randall	866-447-5411
Idaho State University (ISU)	Margaret Phelps	208-282-3372
Lewis-Clark State College (LCSC)	Rock-el Clanton	800-879-0452
National Assoc. of REALTORS® (NAR)	Constance Leahy	800-874-6500
North Idaho College (NIC)	Susie McDonald	208-769-3444
Pioneer Real Estate School (Pioneer)	Chuck Byers	208-377-4300
RealEstateWebSchool.com (REWeb)	A. Allen Nielsen	800-532-7649
Tomlinson Black RE School (TBRES)	Jim Carollo	800-735-2388
Treasure Valley Community College (TVCC)	Mike Woodhead	541-889-6493
University of Idaho (UofI/IS)	Independent Study	208-885-6641
University of Wyoming (UofW)	Mark Sunderman	307-766-4199
Walla Walla Community College (WWCC)	Jane Carroll	509-758-3339
Washington State University (WSU)	Robin Stratton	509-335-3557

**It is highly
recommended
that you
complete the
Core course
each year!**

Disciplinary Actions

Formal actions issued by the Idaho Real Estate Commission:

Bolan, Robert G. "Bud", designated broker with Hailey Realty, Inc., in Hailey. Stipulated to violations of Idaho Code sections 54-2045(1) timing of deposit; 54-2060(2) and (3) continuing course of misrepresentation or making of false promises and failure to account for or remit property. Given a formal reprimand; ordered to pay a civil fine of \$1,500; and costs and attorney's fees.

Budge, Richard W., sales associate with Assist 2 Sell Buyers and Sellers Realty in Meridian. Stipulated to violations of 54-2054(5) Idaho Code for use of double contract; and 54-2045(4) failure to surrender a promissory note to the broker. Given a formal reprimand; ordered to pay a civil fine of \$2,500; required to pay costs and attorney's fees; required to successfully complete a Real Estate Law course.

Butler, Dane A., inactive salesperson, previously associated with Coldwell Banker Aspen Realty in Boise. Stipulated to violations of section 54-2061(1)(a) Idaho Code for conviction of a felony. Real estate license revoked, but license placed in suspended status, during the period of court ordered probation. Required to pay all license renewal fees during this suspended period. License may be reactivated after completion of probation and dismissal of underlying charges by the court, but must complete current continuing education and have paid his costs and attorney's fees. If he violates his probation, his real estate license is revoked immediately. Required to pay costs and attorney's fees in the amount of \$724.22.

Carlson, Jeffrey, inactive salesperson, formerly associated with RE/MAX Nampa/Caldwell in Nampa. Stipulated to violations of Idaho Code sections 54-2060(3) failure to account for property belonging to others; and 54-2060(12) reckless conduct. Given a formal reprimand; ordered to pay a civil fine of \$750; and costs and attorney's fees.

Christianson, Jeffrey L., sales associate with RE/MAX Capital City in Boise. Stipulated to violations of Idaho Code sections 54-2045(4) not immediately delivering earnest money to his broker; and 54-2051(4) (a)(b)(c)(d) to make certain all required terms and conditions are part of the Purchase & Sale

Agreement. Given a formal reprimand; ordered to pay a civil fine of \$500; and required to pay the costs and attorney's fees.

Dyrud, Beverly "Jane", associate broker with Mountain Lakes Realty in McCall. Stipulated to violations of Idaho Code sections 54-2051(4)(a) failure to have signatures dated; 54-2060(2) continued or flagrant course of misrepresentation; and 54-2060(12) gross negligence or reckless conduct. Given a formal reprimand; ordered to pay a \$5,000 civil fine; required to pay costs and attorney's fees; and required to successfully complete a Real Estate Law course.

Kreps, Kevin R., sales associate with Windermere Nampa/Caldwell in Nampa. Real estate license revoked under section 54-2019(1) and (2) Idaho Code, granting a license to him is not in the best interest of the citizens of Idaho.

Mayes, Blake, designated broker with RE/MAX Capital City in Boise. Stipulated to violations of Idaho Code sections 54-2051(4) for not having all required terms and conditions in the Purchase & Sale Agreement; and 54-2038(1) failure to supervise. Given a formal reprimand; ordered to pay a civil fine of \$500; and to pay the costs and attorney's fees.

Mulick, Lani Ann, formerly the designated broker with Code of the West in Idaho Falls and currently with Sun Land Investments, Inc., in Bellevue. Stipulated to violations of rule 415 and section 54-2060(10) Idaho Code for failure to supervise; and section 54-2060(4) failure to keep adequate records. Given a formal reprimand; ordered to pay a civil fine of \$1,000; and required to pay costs and attorney's fees.

Price, Robert Scott, salesperson, formerly associated with Gate City GMAC in Pocatello. Stipulated to 54-2061(1)(a) Idaho Code, conviction of a felony. His real estate license was revoked.

Sleezer, Marty M., designated broker with Total Realtors in Wallace. Stipulated to violations of Idaho Code sections 54-2060(3) failure to account for property which belongs to another; 54-2086(1)(c) duties to a customer to account for property of a customer; 54-2060(12) reckless conduct; 54-2044 failure to reconcile; 54-2060(4) failure to keep adequate records; and 54-2060(5) failure to respond. Given a formal reprimand; real estate license revoked, but

revocation suspended provided he complies in a timely manner to terms of the Final Order; must have a CPA reconcile his trust account within 30 days; must repay any shortage within the 30 days; must provide monthly reconciliation within 7 days of receiving his bank statement; is required to pay a civil fine of \$1,500 and costs and attorney's fees; and is required to successfully complete a live Business Conduct and Office Operations course and Brokerage Management Course. Date of service: 03/28/02. **05/02/02: License revoked for failure to comply with terms of the Final Order.**

Smock, Donald R., designated broker for Windermere Coeur d'Alene Realty Inc., in Coeur d'Alene. Stipulated to violations of Idaho Code sections 54-2038(1)(a)(b) and 54-2048 for failure to supervise; and 54-2060(4) failure to keep adequate records. Given a formal reprimand; required to pay \$1,000 civil fine; and costs and attorney's fees.

Swehosky, Barbara H., salesperson with Century 21 Beutler & Associates in Coeur d'Alene. Stipulated to violation of section 54-2087(3)(d) Idaho Code, failure to conduct a reasonable investigation of the property for a client. Given a formal reprimand; required to pay a civil fine of \$1,000; and costs and attorney's fees.

Wells, Ranford A. "Randy", sales associate with Windermere Coeur d'Alene Realty, Inc., in Coeur d'Alene. Stipulated to violations of Idaho Code sections 54-2053(4) misleading advertising; 54-2085(1) disclosure and writing requirements of agency relationships; 54-2045(4) consideration received by a sales associate; and 54-2060(4) failure to keep adequate records. Given a formal reprimand; required to pay a \$1,500 civil fine; and costs and attorney's fees.

Wiegand, Diane E., designated broker for Mountain Lakes Realty in McCall. Stipulated to violations of Idaho Code, sections 54-2045(1) failure to deposit earnest money; 54-2041(2) failure to care for earnest money by returning to the buyer prior to withdrawal of the offer; 54-2050 allowing an agent under her supervision to use an expired Seller Representation Agreement; and 54-2038(1)(a) and (b) failure to supervise and review documents. Given a formal

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reprimand; ordered to pay a civil fine of \$1,500; and costs and attorney's fees.

Yearsley, Grant L., sales associate with Valley Real Estate in Garden Valley. Stipulated to violations of Idaho Code sections 54-2060(12) reckless conduct in a regulated transaction; 54-2053(4) misleading advertising; 54-2051(2)(4)(a-d) incomplete Purchase & Sale Agreement; 54-2051(1)(a-e) no valid listing agreement. Given a formal reprimand; required to pay a civil fine of \$1,500; costs and attorney's fees; and required to complete a Real Estate Law course within six months.

Yearsley, Linda, Designated broker with Valley Real Estate in Garden Valley. Stipulated to violations of Idaho Code sections 54-2060(12) reckless conduct in a regulated transaction; 54-2053(4) misleading advertising; 54-2051(2)(4)(a-d) incomplete Purchase & Sale Agreement; 54-2051(1)(a-e) no valid listing agreement. Given a formal reprimand; required to pay a civil fine of \$1,500; costs and attorney's fees; and required to complete a Real Estate Law course within six months.

Designated brokers, associate brokers or salespersons issued a civil penalty fine for violation of sections 54-2002, 54-2018(2), and 54-2060(10), Idaho Code-failure to renew license in a timely manner, and continuing to practice as a licensee after license had expired:

Bell, Andrea "Andy", sales associate with Bushell & Company in Sun Valley. Civil penalty fine of \$150.

Bogaert, Paul L., sales associate with LP Link Associates, Inc., in Coeur d'Alene. Civil penalty fine of \$50.

Brickett, Robert Douglas III, sales associate with Coldwell Banker Schneidmiller Realty in Coeur d'Alene.

License Stats

Active (broker & sales)	5,471
Active brokers	1,735
Active sales	3,737
Inactive (broker & sales)	1,734
Inactive brokers	380
Inactive sales	1,354
Active Companies	1,006

Civil penalty fine of \$50.

Clark, Thomas D., associate broker with Century 21 1st Place Realty in Boise. Civil penalty fine of \$50.

Clements, Maurice L., sales associate with Brandt Agency in Nampa. Civil penalty fine of \$50.

Cogdill, Creighton L., sales associate with ERA West Wind in Boise. Civil penalty fine of \$50.

Cooper, Judith F., sales associate with Hope Realty: Northwest Brokers Corporation in Coeur d'Alene. Civil penalty fine of \$50.

Dillon, Lou Ella, sales associate with Sommerfeld Realty, Inc., in Sandpoint. Civil penalty fine of \$50.

Drinkard, Holly Kay, sales associate with Treasure Valley Properties, Inc., in Nampa. Civil penalty fine of \$100.

Farrell, Joseph Alan, sales associate with Pace Kerby & Company, Inc., in Bonners Ferry. Civil penalty fine of \$100.

Forno, James E., sales associate with GMAC Real Estate Northwest: Jordan Hill & Hall, Inc., in Coeur d'Alene. Civil penalty fine of \$100.

Hancock, Stephen B., reciprocal associate broker with Jackson Hole Realty; Real Estate Services LTD in Jackson, WY. Civil penalty fine of \$50.

Harmon, Kelly R., sales associate with RE/MAX of Boise in Boise. Civil penalty fine of \$50.

Jackson, Jason M., sales associate with Columbia Village Realty in Boise. Civil penalty fine of \$50.

Jensen, Douglas P., sales associate with River City Realty, Inc., in Post Falls. Civil penalty fine of \$50.

Jones, Mark E., sales associate with Robert Jones Realty, Inc., in Twin Falls. Civil penalty fine of \$50.

Lacey, Price A. "Andy", sales associate with Idaho Real Estate Company in Nampa. Civil penalty fine of \$50.

Lamb, Anjeleigh M., sales associate with Coldwell Banker Schneidmiller Realty in Coeur d'Alene. Civil penalty fine of \$50.

Lukoic, Travis J., sales associate with RE/MAX of Boise in Boise. Civil penalty fine of \$50.

Mannan, Hilary, sales associate with Mark Hall Real Estate in Sandpoint. Civil penalty fine of \$50.

McCann, Michael D., associate broker with McCann Daech Fenton REALTORS® LLC in Sun Valley. Civil penalty fine of \$50.

Mickelson, Mary L., sales associate with Windermere Real Estate/Sun Valley LLC in Hailey. Civil penalty fine of \$50.

Middleton, William C., sales associate with First Service Group Real Estate in Boise. Civil penalty fine of \$300.

Morelan, Jerry H., sales associate with Wolfinger Land & Auction Co. in Grangeville. Civil penalty fine of \$100.

Nahas, Robert W., designated broker with Nahas Enterprises, Inc., in Boise. Civil penalty fine of \$100.

Pierce, John C., reciprocal managing associate broker with Hall & Hall Partners LLP in Jackson, WY. Civil penalty fine of \$100.

Rollins, Allen R., designated broker with Intermountain Land Exchange, Inc., in Pocatello. Civil penalty fine of \$70.

Sawyers, Samuel L., associate broker with RE/MAX of Boise in Boise. Civil penalty fine of \$100.

Shine, William G., sales associate with GMAC Real Estate Northwest in Coeur d'Alene. Civil penalty fine of \$100.

Stucker, Pamela, associate broker with Realty One Centre of Boise, Inc., in Boise. Civil penalty fine of \$50.

Swenson, Heidi J., salesperson (currently inactive) with American Realty in Boise. Civil penalty fine of \$150.

Wali, David S., sales associate with Colliers International in Boise. Civil penalty fine of \$50.

Designated brokers issued a civil penalty fine for violation of sections 54-2038(3) and 54-2060(10), Idaho Code-failure to adequately supervise by allowing an unlicensed person to represent the broker:

Brandt, Donald K., designated broker with Brandt Agency in Nampa. Civil penalty fine of \$50.

Browning Jr., John W., designated broker with First Service Group Real Estate in Boise. Civil penalty fine of \$150.

Bushell, Geoffrey S., designated broker with Bushell & Company in Sun Valley. Civil penalty fine of \$150.

Clark, Richard P., designated broker with Colliers International in Boise. Civil penalty fine of \$50.

Clifton, Maurice S., designated broker with ERA West Wind in Boise. Civil penalty fine of \$50.

Dildine, David W., designated broker with Realty One Centre of Boise in Boise. Civil penalty fine of \$50.

(continued on page 15)

(Disciplinary from page 14)

Fenton, Jr., Richard, designated broker with McCann Daech Fenton Realtors LLC in Sun Valley. Civil penalty fine of \$50.

Gorham, Daniel Joseph, designated broker with Windermere Real Estate/Sun Valley LLC in Hailey. Civil penalty fine of \$50.

Hall, Douglas A., reciprocal designated broker with Hall & Hall Partners LLP in Jackson, WY. Civil penalty fine of \$100.

Hall, Mark V., designated broker with Mark Hall Real Estate in Sandpoint. Civil penalty fine of \$50.

Hoke, George Bland, reciprocal designated broker with Jackson Hole Realty; Real Estate Services LTD in Jackson, WY. Civil penalty fine of \$50.

Jones, Robert, designated broker with Robert Jones Realty, Inc., in Twin Falls. Civil penalty fine of \$50.

Jordan, R. Brad, designated broker with GMAC Real Estate Northwest: Jordan Hill & Hall, Inc., in Coeur d'Alene. Civil penalty fine of \$100.

Jordan, R. Brad, designated broker with GMAC Real Estate Northwest: Jordan Hill & Hall, Inc., in Coeur d'Alene. Civil penalty fine of \$100.

Kerby, Darrell W., designated broker with Pace Kerby & Company, Inc., in Bonners Ferry. Civil penalty fine of \$100.

Lanum, Betty J., designated broker with Idaho Real Estate Company in Nampa. Civil penalty fine of \$50.

Link, Joyce E., designated broker with LP Link Associates, Inc., in Coeur d'Alene. Civil penalty fine of \$50.

Longstreet, Garrett James, designated broker with Century 21 1st Place Realty in Boise. Civil penalty fine of \$50.

Rowland, Dewey M., designated broker with Columbia Village Realty in Boise. Civil penalty fine of \$50.

Schneidmiller, Gary T., designated broker with Coldwell Banker Schneidmiller Realty in Coeur d'Alene. Civil penalty fine of \$50.

Schneidmiller, Gary T., designated broker with Coldwell Banker Schneidmiller Realty in Coeur d'Alene. Civil penalty fine of \$50.

Stevens, Marjorie S., designated broker with Sommerfeld Realty, Inc., in Sandpoint. Civil penalty fine of \$50.

Tracy, Michael Shaun, designated broker with RE/MAX of Boise in Boise. Civil penalty fine of \$50.

Tracy, Michael Shaun, designated broker with RE/MAX of Boise in Boise. Civil penalty fine of \$100.

Tracy, Michael Shaun, designated broker with RE/MAX of Boise in Boise. Civil penalty fine of \$50.

Vaudreuil, Raymond R., designated broker with Hope Realty: Northwest Brokers Corporation in Coeur d'Alene. Civil penalty fine of \$50.

Walker, Jamie A., designated broker with Treasure Valley Properties, Inc., in Nampa. Civil penalty fine of \$100.

Wolfinger, James P., designated broker with Wolfinger Land & Auction Co. in Grangeville. Civil penalty fine of \$100.

Woolf, Barbara J., designated broker with American Realty in Boise. Civil penalty fine of \$150.

Youngwirth, Michael D., designated broker with River City Realty, Inc., in Post Falls. Civil penalty fine of \$50.

The following designated brokers have been issued citations for violations found during their audits:

Anderson, Michael W., designated broker with McCall Real Estate Company in McCall.

Bilyeu, Clark P., designated broker with Corey Barton Home Sales & Marketing, Inc., in Nampa.

Byington, Dwain "Ed", designated broker with The Real Estate Store, LLC, in Nampa.

Callies, Tricia A., designated broker with Boise Realty, Inc., in Boise.

Crawford, Robert D., designated broker with The Crawford Company Real Estate Services in McCall.

Ekstrom, Jan Louise, designated broker with Janek Co. in Coeur d'Alene.

Ellis, Bert W., designated broker with Greylock Realty in Boise.

Erickson, Barbara J., designated

broker with Lewis Clark Real Estate.com in Clarkson, WA.

George, Carol Jane, designated broker with Associates First Realty LLC in Twin Falls.

Gorham, Daniel Joseph, designated broker with Windermere Real Estate/Sun Valley LLC in Hailey.

Hellen, Lynda M., designated broker with Direct Realty in Boise.

Jordan, R. Brad, designated broker with GMAC Real Estate Northwest in Coeur d'Alene.

McFarland, Donald A., designated broker with RE/MAX West-Results, Inc., in Boise.

McGraw, Richard W., designated broker with The Real Estate Group in Meridian.

Noah, Creed A., designated broker with Creed Noah Real Estate Company in Cambridge.

O'Neill, D. Derick, designated broker with OEI Properties in McCall.

Page, Douglas S., designated broker with High Desert Realtors, Inc., in Idaho Falls.

Roecks, Bettie M., designated broker with Roecks & Roecks, Inc., in Spokane, WA.

Rowland, Dewey M., designated broker with Columbia Village Realty in Boise.


Skelly, Phil Leon, designated broker with RE/MAX Tri-Cities LLC in Fruitland.

Strickland Jr., Richard B., designated broker with Strickland Real Estate in Gooding.

Weigand, Diane Elizabeth, designated broker with Mountain Lakes Realty in McCall.

Wellington, Ben L., designated broker with Wellington Real Estate in Cascade.

Wixom, Donald D., designated broker with RE/MAX Advantage in Nampa.

Yearsley, Linda K., designated broker with Valley Real Estate in Garden Valley. 

Moving?

All licensees, whether active or inactive, must notify (in writing) the Idaho Real Estate Commission when their personal address changes. So, fax it, mail it, fill out a Notice of Change form, change it on the renewal form, e-mail it to nbernkla@irec.state.id.us, or change it online at <http://www.idahorealestatecommission.com/renewal.html>. Best of all, there is **NO** charge. 

New Continuing Education Rules

400. CONTINUING EDUCATION A PREREQUISITE FOR RENEWAL OF ACTIVE LICENSE. Every licensee applying to renew a license on active status, or applying to change from inactive to active license status, shall first meet the continuing education requirements set forth in Sections 54-2018 Idaho Code, and 54-2023, Idaho Code.

401. OBTAINING CONTINUING EDUCATION CREDIT. In addition to those courses that have been certified or preapproved for continuing education by the Commission, and as provided in Section 54-2023(5)(e), Idaho Code, a licensee may obtain continuing education credit for the successful completion of any course meeting either of the following descriptions, without the preapproval or certification of the Commission:

01. Professional designation courses. Courses developed by national professional organizations and that are required in order to earn professional designations from a national organization in specialized areas of licensed real estate practice; or

02. Courses accredited by other professions. Courses approved by and offered in satisfaction of another professional or occupational licensing authority's education requirements, if within the approved topics listed in Rule 402.

402. APPROVED TOPICS FOR CONTINUING EDUCATION.

01. Topics approved by the Commission. Approved topic areas for continuing education, as provided for in sections 54-2023 and 54-2036, Idaho Code, include the following:

- a. Real estate ethics;
- b. Legislative issues that influence real estate practice;
- c. Real estate law; contract law; agency; real estate licensing law and administrative rules;
- d. Fair housing; affirmative marketing; Americans with Disabilities Act;
- e. Real estate financing, including mortgages and other financing techniques;
- f. Real estate market measure-

ment and evaluation;

- g. Land use planning and zoning; land development; construction; energy conservation in building;
- h. Real estate investment;
- i. Accounting and taxation as applied to real property;
- j. Real estate appraising;
- k. Real estate marketing procedures related specifically to actual real estate knowledge;
- l. Real estate inspections;
- m. Property management;
- n. Timeshares, condominiums and cooperatives;
- o. Real estate environmental issues and hazards, including lead-based paint, underground storage tanks, radon, etc., and how they affect the practice of real estate;
- p. Water rights;
- q. Brokerage office management and supervision; and
- r. Use of calculators or computers as applied to the practice of real estate.

02. Other topics. Upon written request, the Commission may also approve any other topic that directly relates to real estate brokerage practice and that directly contributes to the accomplishment of the primary purpose of continuing education, which is to help assure that licensees possess the knowledge, skills, and competency necessary to function in the real estate business in a manner that protects and serves the public interest. The knowledge or skills taught in an elective course must enable licensees to better serve real estate consumers.

03. Topics not eligible for continuing education credits. The following activities shall not be eligible for approval for compliance with the continuing education requirement: those which are specifically exam preparation in nature; those which deal with office or business skills, such as typing, speed reading, memory improvement, body language, motivation and similar activities; those which are held in conjunction with a brokerage firm's sales promotion or sales meetings; those which are held by trade organizations for

licensee's orientation.

403. CERTIFICATION OF COMPLIANCE AND SATISFACTORY PROOF.

As required by Section 54-2018, Idaho Code, a licensee applying to renew an active license, or to change from inactive to active status, shall certify having met the continuing education requirements set forth in Section 54-2023, Idaho Code, in the form and manner approved by the commission. The licensee shall keep satisfactory proof of having completed the requirement, and upon request, shall provide satisfactory proof to the Commission of having completed the requirement.

01. Commission Request for Proof of Compliance. The commission may request satisfactory proof of continuing education compliance from any licensee who has submitted a certification of continuing education compliance. The request shall state the time within which the proof must be received in the Commission office, which time shall not be less than ten (10) business days.

02. Satisfactory Proof of Compliance. Upon request from the Commission, the licensee shall submit satisfactory proof of having met the continuing education requirement. Satisfactory proof shall include, for each course listed in the certificate of compliance, the following:

(a) Satisfactory evidence of having successfully completed the course, which shall consist of:

- (i) A transcript of the course taken;
- (ii) A letter from the provider verifying successful completion of the course; or

(iii) A course completion certificate; and shall clearly identify the licensee, the title of the course or challenge exam, the course provider, the number of classroom hours, and the challenge exam or course completion date; and

(b) Satisfactory evidence that the course listed is approved for continuing education credit, as provided by section 54-2023, Idaho Code, which shall be established by the course certification

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Reduce Your Risk of Errors & Omissions Claims: Disclose Defects and Recommend Professional Opinions

by Rice Insurance Services Company, LLC

A review of Idaho real estate errors and omissions claims from January 1, 1999, to the present indicates that the majority of these claims against agents have been based upon allegations of misrepresentations about the house, property or boundary lines, or non-disclosure of hidden defects in the property or house. Many of these types of claims can be prevented by a careful examination of the property before listing or showing any piece of property or structure. In addition, recommending that the seller complete a property disclosure statement, recommending that a professional home inspection be conducted by a qualified, insured home inspector, or recommending an independent survey of the property by a professional, can often prevent these claims or, if necessary, defeat them in litigation.

As an agent, do your homework; conduct a careful visual inspection of each piece of property you list or sell, document any defects you find and discuss the defects with the seller. Any defects should also be disclosed to prospective buyers. As the listing agent, you should always have the seller complete a Seller's Disclosure Statement. You should not complete this Disclosure Statement or advise the seller on how to complete it, or you may find yourself defending a claim later from the buyer, the seller, or both. Lawsuits against Idaho real estate agents alleging failure to disclose certain defects known by the agent or failure to provide a Seller's Disclosure Statement have been common over the past three years.

A typical non-disclosure claim can arise when a seller asks you, as the listing agent, how to address a "small water problem around the foundation"

on the Seller's Disclosure Statement, and to be helpful, you respond that if the seller has corrected the water problem and nothing further has happened, then the seller does not need to disclose it on the Disclosure Statement. The seller tells you that he has corrected the problem by putting some fill dirt around the foundation. Two months after the closing, a big rain leaves water flooding into the foundation of the house. The buyer's agent calls you and you call the seller, as the buyer is screaming for rescission of the contract or thousands of dollars in repair damages. The seller responds that you were aware of the water problem and agreed that he did not need to disclose it. The seller refuses to pay for any repairs and a lawsuit is filed against the seller and you.

Also, be careful in acting as a dual agent for the sellers and buyers, particularly when the buyers are out-of-state. Full disclosure to all parties is required and should be done in writing. As a dual agent, you should make sure to disclose, in writing, all conflicts of interest in representing both parties and keep copies of all documentation. A well-documented file often prevents and provides the best defense against errors and omissions claims. Idaho agents acting in a dual agency capacity have been sued for non-disclosure by both sellers and buyers over the past three years.

A typical dual agency claim can arise when an out-of-state buyer alleges you misrepresented or failed to disclose some condition in the house or property because you also represented the seller. The out-of-state buyer alleges he visited the house one time and was told by you that the roof was new. The seller had told you that the roof was new,

although he never produced a warranty or anything in writing to back up his statement. You had not looked carefully at the roof to try and verify its age or the seller's statement. The big rain comes again, and the roof leaks on the buyers during their first weekend in the house. The buyers immediately call you and claim you misrepresented the age of the roof. The buyers also allege that they relied on you as their in-state agent to disclose and verify all relevant information about the house. The sellers refuse to repair or replace the roof and it continues to leak. The buyers file a lawsuit against the sellers and you for damages to replace the roof. You find yourself caught in the middle, trying to remember and defend any and all disclosures made by you to both the buyers and the sellers.

This lawsuit may have been avoided by your recommendation to the buyers of an independent professional home inspection being completed prior to the closing. You should always recommend a home inspection to your prospective in-town or out-of-state house buyers. You should provide a list of at least five qualified, insured home inspectors, and you should not make any recommendations with regard to the inspectors. You should update your list of inspectors regularly by checking their qualifications and references. You should mark off your list those home inspectors who you have received consumer complaints about or who do not carry insurance. Do not provide the name of only one inspector or recommend a relative "who needs the work," or you may be inviting a lawsuit, particularly if the home inspector is uninsured. Remember Idaho real estate agents are often brought into

(continued on page 18)

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Check it out!

(E&O from page 17)

lawsuits involving sellers, buyers, home inspectors, pest control companies and others, because the real estate agent is the only party involved in the transaction who has insurance.

In addition, if the home inspector finds any defect, or lists any items that he thinks need repairing or replacing in the report, don't hire a contractor, plumber, or electrician to perform the repairs. Any repair work, and payment for the work, should be agreed upon in writing by the sellers and the buyers prior to the work being performed. Claims of breach of duty and negligence have been alleged against real estate agents in Idaho who have agreed to hire contractors to get repair work done "to facilitate the sales process" and the repair work was of poor quality or never completed. These claims may have been avoided if the real estate agent had not acted outside his or her area of expertise.


Another way to avoid an Errors and Omissions claim is not to identify boundary or property lines for the prospective buyer. If there is a question about the

boundary lines on a piece of property, recommend to the prospective buyer that an independent survey of the property be performed by a professional to identify the boundary lines. You should provide a list of at least five professional surveyors to the prospective buyer, similar to the list of home inspectors, and don't recommend one surveyor over the others. Again, don't provide the name of only one surveyor, and don't retain the surveyor to perform the survey. If the survey is not accurate, or is performed in some negligent fashion and you selected the surveyor, you may be inviting an errors and omissions lawsuit. There have been numerous claims made against Idaho real estate agents for improperly or negligently identifying boundary lines, with some misidentified boundary lines even resulting in the sale of the wrong property and expensive lawsuits.

A typical claim can arise when you are walking a piece of property with a prospective buyer and questions arise about the boundary lines. There are stakes on the property and the prospective buyer asks you whether the stakes mark the boundary lines and whether

certain items such as a well are included on the property. You respond that you are not certain, but think the stakes identify the boundary lines and that the well is part of the property for sale. No professional survey or verification of boundary lines is completed prior to the closing. After the buyer takes possession of the property and starts to use the well, the neighboring landowner tells the buyer to stop trespassing on his property and using his well. Eventually the buyer files a lawsuit against you and the sellers, and you argue that you told the prospective buyer that you had only seen the property once and that you weren't sure if the stakes marked the boundary lines. However, you have nothing in writing in your file to document that conversation or to verify the location of the boundary lines, so the lawsuit continues. Again, the lawsuit may have been avoided if you had better documentation in your file, or you had recommended that the buyer retain an independent professional to prepare a survey of the property.

In conclusion, always be careful in answering any questions from prospective buyers or seller about a particular piece of property. Verify what is fact about the property and what is your opinion. If you don't know the answer to a question, say so and don't create an answer. Remember to recommend professional opinions when appropriate to shift risk. Don't be left holding the bag, or defending the lawsuit, for failing to do your homework when selling or listing a piece of property.

This article was prepared by Rice Insurance Services Company, LLC (RISC). The example claims were based upon fact patterns presented in claims which had been administered by RISC's Claims Examiners and Errors and Omissions Counsel. This is not an exhaustive description of Idaho real estate Errors and Omissions claims for the last three years. Also, this article does not describe the Idaho Real Estate Commission group Errors and Omissions policy or whether the policy would provide coverage for all examples of claims discussed herein. 

(Rules from page 16)

approval number. The Commission may, in its sole discretion, accept alternative documentation establishing that the course is approved for credit.

404. FAILURE TO SUBMIT SATISFACTORY PROOF – INACTIVATION OF LICENSE.

Failure of a licensee to comply with a Commission request for satisfactory proof of continuing education compliance shall be deemed an insufficient application for licensure under Section 67-5254, Idaho Code, and shall result in the immediate inactivation of the license. The inactivation of the license shall be deemed a partial expiration of the license.

405. AUTHORITY TO INVESTIGATE AND DISCIPLINE NOT LIMITED. Nothing in these rules shall limit the Commission's authority granted in sections 54-2058 through

54-2065, Idaho Code, to investigate and discipline a licensee for misconduct.

406. FALSIFICATION OF CERTIFICATES OR DOCUMENTATION.

Any licensee who, acting alone or in concert with others, willfully or knowingly causes or allows a Certification of Continuing Education Compliance, or any written documentation verifying a Certification of Continuing Education Compliance, to be submitted to the Commission which is false, fraudulent, or misleading, shall be subject to disciplinary action, including but not limited to suspension or revocation of license, in accordance with Chapter 52, Title 67, Idaho Code; provided, however, that nothing herein shall entitle such licensee to notice and hearing on the automatic inactivation of license provided for in these rules.

407. — 499. (RESERVED). 

Idaho Indoor Environment Program

by Kara Stevens, Department of Health & Welfare

The Idaho Indoor Environment Program (IIEP) is housed within the Department of Health and Welfare, Bureau of Environmental Health and Safety. The program is responsible for informing and educating Idahoans about human health risks associated with exposure to indoor contaminants, and ways to prevent or reduce exposure. Mold and radon are the two issues that IIEP receives the most calls and requests for information.

Mold

Over the last two years, there has been an increase in the number of mold calls received by the IIEP. Some of the reasons for the increase include: 1) Dwell time for water has gone up due to lack of natural ventilation in homes, 2) building materials, such as particle board and Oriented Strand Board (OSB), are less tolerant to water and 3) homes are

being built on shallow water tables and in clay soil without drainage systems.


REALTORS® should advise home inspectors to look for moisture problems such as water in the crawlspaces and stained ceiling tiles. In addition the seller should be asked if they have ever had water leaks or moisture problems in the home. The IIEP has an information packet on mold that is available to Realtors and their clients. **Free copies of the mold information packet are available by calling the IIEP at 1-800-445-8647.**

Radon

Radon is found all over the United States, including Idaho. Since 1990, 35% of the radon tests reported in Idaho have been above the Environmental Protection Agency's (EPA) action level of 4 picoCuries per Liter (pCi/L). The average radon level in Idaho is 6.1 pCi/

L, almost five times higher than the national average.

Real estate agents can provide a service to their clients by ensuring that home buyers and sellers are informed about risks of radon before closing. Disclosure creates a level playing field for buyers and sellers, because both parties are given the same information early in the process when there is time to consider the information and act on it. It appears that radon rarely is a "deal breaker."

The EPA, in association with the National Association of REALTORS®, states, and others, developed a *Home Buyer's and Seller's Guide to Radon*. The pamphlet provides guidance on how to test for radon during real estate transactions. **Free copies of the Home Buyer's and Seller's Guide are available by contacting the IIEP at 1-800-445-8647.** 

(Q & A from Page 2)

rectly create a double contract, or which would otherwise mislead any broker, lender, title company, or government agency involved in the transaction regarding source of funds used to complete the real estate transaction or regarding the financial resources or obligations of the buyer.

License law **54-2053(4)** provides that no advertising shall provide any information to the public or to prospective customers or clients, which is misleading in nature.

Therefore, any limiting factors in the advertising must be clearly spelled out so as not to mislead anyone reading the advertisement. Additionally, any rebates made to purchasers that will effect their loan, must be disclosed in the Purchase and Sales Agreement for the underwriters approval.

Question: Can a licensee that is changing brokers transfer all of their deals and listings to their new broker?


Answer: License law **54-2056(5)** states that upon termination of the business relationship as a sales associate licensed under a broker, the sales associate shall immediately turn over to the broker all listing information and listing contracts, keys, purchase and sales agreements and similar contracts, and other property belonging to the broker. A sales associate shall not engage in any practice or conduct, directly or indirectly, which encourages, entices or induces clients of the broker to terminate any legal business relationship with the broker unless he first obtains written permission of the broker.

A licensee is certainly allowed to get paid for transactions that were created before they move. This would allow the existing sales to close, and not interrupt the trust account record keeping, and other important issues with a transaction. Listings and buyer representation agreements that the first broker agrees to release can be moved. They must be released outright and re-listed at the new brokerage. Remember that the

clients have input in this process as well. They may prefer the original broker, or even choose to list elsewhere when they are released.

Question: When does a licensee have to deliver earnest money associated with a purchase and sales agreement to their broker?

Answer: License law **54-2045(4)** states that all consideration, including cash, checks held in uncashed form and promissory notes, received by a sales associate in connection with a real estate transaction shall be immediately delivered to the broker or the broker's office.

The word "immediately" is used with good reason. There is no provision allowing a licensee to deliver earnest monies upon acceptance. A broker is required to create a trust account ledger card, and account for these monies prior to acceptance. If the licensee doesn't turn it in, then the broker cannot properly account for it. 


HONOR ROLL

Offices with *NO* Audit Violations!

(from May 1, 2002, through October 31, 2002)

Office Audits Conducted	127
Offices With No Violations	29
* Limited Activity Offices	

Glenda Evans, Idaho One Realty, Eagle
Daniel David Foreman, City-Wide Realty, Inc., Moscow
Glenn B. Owen Jr., Moscow Realty LLC, Moscow
Gail A. Byers, Gail Byers Real Estate, Moscow
Deborah Sievers, Sagecreek Realty LLC, Ketchum
Linda L. Badell, Classic Realty, Ketchum
James E. Gray, Sun Valley Associates, Sun Valley
Steven W. Kohntopp, Magic Valley Realty, Twin Falls
Bonny Jean Ross, Canyonside Realty, Jerome
Marva J. Walters, Landmark Realty, Jerome
Robert Jones, Robert Jones Realty, Twin Falls
Sid Lezamiz, Lezamiz Real Estate Co, Twin Falls

David Ray O'Brien, Cascade Lake Realty, Cascade
James E. Boring, Lakeland Real Estate, Cascade
David Kay Engen, Engen Realty, McCall
Michelle Lynn Bayse, Brundage Realty, McCall
F. Fred Glemser, Adams County Real Estate, Council
Doris E. Jenkins, Realty One Professionals Plus, Boise
Ned W. Johnson, Realty One Symphony Homes, Boise
Rodney C. Panike, Select Properties LLC, Weiser
Claude M. Davis III, Century 21 Exclusive Properties, Inc., Weiser
Joseph P. "Rusty" Lucas, Homeland Realty, Boise 

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